

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

JAMES VALENTINIS-DEE

§

VS.

§

CIVIL ACTION NO. 9:23cv24

WARDEN JASON GUNTHER, ET AL.

§

## MEMORANDUM OPINION REGARDING VENUE

Plaintiff James Valentinis-Dee, an inmate at the United States Penitentiary Coleman II located in Sumterville, Florida, proceeding *pro se*, filed this mandamus action.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

## Discussion

Plaintiff brings this mandamus action seeking to compel Warden Gunther, Captain Taylor, and the unit case manager to perform their duties and put him in for consideration of placement in a half-way house in Houston, Texas. Additionally, plaintiff seeks injunctive relief regarding alleged lost property and interference with his legal mail.

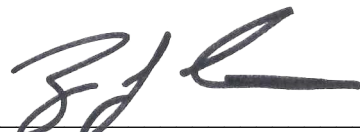
## Analysis

When jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. At the time of the incidents which form the basis of plaintiff's action he was confined at the United States Penitentiary located in Sumterville, Sumter County, Florida, where he remains. Further, the prison defendants are employed at the United States Penitentiary located in Sumterville.

Sumter County, Florida. When public officials are parties to an action in their official capacities, they reside for venue purposes in the county where they perform their official duties, which in this case is Sumter County, Florida. *Holloway v. Gunnell*, 685 F.2d 150 (5th Cir. 1982); *Lowrey v. Estelle*, 433 F.2d 265 (5th Cir. 1976). Sumter County, Florida is located within the jurisdictional boundaries of the United States District Court for the Middle District of Florida, Ocala Division.

As Sumter County, Florida is located within the jurisdictional boundaries of the United States District Court for the Middle District of Florida, venue in the Eastern District of Texas is not proper. When venue is not proper, the court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). This case should be transferred to the United States District Court for the Middle District of Florida, Ocala Division. An appropriate order so providing will be entered by the undersigned.

SIGNED this 3rd day of February, 2023.

  
\_\_\_\_\_  
Zack Hawthorn  
United States Magistrate Judge